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OSD(HA), TMA eBPS

Highlights

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- ◆ General Requirements
- ◆ Frequently Asked Questions



HIPAA - Privacy - Payment

TRICARE Management Activity, Electronic Business Policy & Standards, March 2002

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

BACKGROUND

As provided for by the HIPAA Privacy rule, a covered entity may use and disclose protected health information (PHI) for payment purposes. "Payment" is a defined term that encompasses the various activities of health care providers to obtain payment or be reimbursed for their services, and for a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care.

In addition to the general definition, the Privacy Rule provides examples of common payment activities, which include, but are not limited to:

- Determining eligibility or coverage under a plan and adjudicating claims;
- Risk adjustments;
- Billing and collection activities;
- Reviewing health care services for medical necessity, coverage, justification of charges and the like;
- Utilization review activities, and
- Disclosures to consumer reporting agencies (limited to specified identifying information about the individual, his or her payment history, and identifying information about the covered entity).

FREQUENTLY ASKED QUESTIONS

Q: Does the rule prevent reporting to consumer credit reporting agencies or otherwise create any conflict with the Fair Credit Reporting Act (FCRA)?

A: No. The Privacy Rule's definition of "payment" includes disclosures to consumer reporting agencies. These disclosures, however, are limited to the following PHI about the individual: name and address; date of birth; social security number; payment history; account number. In addition, disclosure of the name and address of the health care provider or health plan making the report is allowed. The covered entity may perform this payment activity directly or may carry out this function through a third party, such as a collection agency, under a business associate arrangement.

No known conflict exists between the Privacy rule and FCRA. The Privacy Rule permits uses and disclosures by the covered entity or its business associate as may be required by FCRA or other law.

Electronic Business Policy &
Standards

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FREQUENTLY ASKED QUESTIONS

Q: Does the Privacy rule prevent health plans and providers from using debt collection agencies? Does the rule conflict with the Fair Debt Collection Practices Act?

A: The Privacy Rule permits covered entities to continue to use the services of debt collection agencies. Debt collection is recognized as a payment activity within the "payment" definition. Through a business associate agreement, the covered entity may engage a debt collection agency to perform this function on its behalf. Disclosures to collection agencies under a business associate agreement are governed by other provisions of the rule, including consent (where consent is required) and the minimum necessary requirements.

No known conflict exists between the Privacy Rule and the Fair Debt Collection Practices Act. Where a use or disclosure of PHI is necessary for the covered entity to fulfill a legal duty, the Privacy Rule would permit such use and disclosure as required by law.

Q: Are personnel locator information services of collection agencies, which are required under the Fair Debt Collection Practices Act, permitted under the Privacy Rule?

A: "Payment" is broadly defines as activities by health plans or health care providers to obtain premiums or obtain or provide reimbursements for the provision of health care. The activities specified are by way of example and are not intended to be an exclusive listing. Billing, claims management, collections activities are related data processing are expressly included in the definition of "payment". Obtaining information about the location of the individual is a routine activity to facilitate the collection of amounts owed and the management of accounts receivable, and therefore, would constitute a payment activity. The covered entity and its business associate would also have to comply with limitations placed on location information services by the Fair Debt Collection Practices Act.

Q: Is an authorization from the patient required prior to the performance of the activities of the Debt Collection Assistance Officers and Beneficiary Counseling and Assistance Coordinators?

A: Most activities of the of the Debt Collection Assistance Officers and Beneficiary Counseling and Assistance Coordinators fall under HIPAA's definition of "payment." Therefore, if the patient has provided singed consent to the MHS Notice of Privacy Practices, appropriate action has been taken to inform the patient.